

# **CONSTITUTION OF INDIA**



**Justice M. S. Sonak  
High Court of Bombay**

# Constitution

A constitution is the set of the most important rules and common understandings in any given country that regulate the relations among that country's governing institutions and also the relationship between those governing institutions and the people of that country.

## - **A King**

Originally an English transplant with Anglo - Saxon roots, the legal system in India has grown over the years, nourished in Indian soil: what was intended to be an English oak has turned into a large, sprawling Indian Banyan, whose serial roots have descended to the ground to become new trunks.

## - **Fali S Nariman**

# What is the constitution

- A living organ, not a fossil
- Source of legislation, not a product
- A fundamental norm
- Touchstone with which to test other laws
- Documents aspirations, social values, commitments
- Political philosophy, path to future
- Stable yet flexible





**THE WAR IN EUROPE IS ENDED!  
SURRENDER IS UNCONDITIONAL;  
V-E WILL BE PROCLAIMED TODAY;  
OUR TROOPS ON OKINAWA GAIN**

**BLIND-WIDE DRIVE** The Pullman Armory  
The Pullman Armory in Chicago is being converted into a hospital for the blind. The work is being done by the Pullman Company. The armory is a large building and is being converted into a hospital for the blind. The work is being done by the Pullman Company. The armory is a large building and is being converted into a hospital for the blind. The work is being done by the Pullman Company.



# Victory Day

**EXTRA THE DEMOCRAT V-E Edition**

**WAR IN EUROPE ENDS!  
Nazi Surrender Unconditionally**

**Capitulation Terms Signed at Reims**

**The Rise And Fall Of Nazi Germany**

**World War Chronology**

**Reims, France, —(AP)—** Germany has surrendered unconditionally to the western Allies and Britain at 2:45 in the French town of Reims.

The surrender was signed at 2:45 in the town of Reims. The signing was witnessed by the Western Allies and the Soviet Union. The signing was witnessed by the Western Allies and the Soviet Union. The signing was witnessed by the Western Allies and the Soviet Union.

**Daily Mirror**

**BRITAIN'S DAY OF REJOICING**

**Cheering their 'Winnie'**

**Minute past midnight**

At 11:59 p.m. on May 7, 1945, the British people were told to get ready for the coming of the new day. At 12:01 a.m. on May 8, 1945, the British people were told to get ready for the coming of the new day. At 12:01 a.m. on May 8, 1945, the British people were told to get ready for the coming of the new day.

# 8th May 1945 V day

**8th MAY 1945  
VICTORY DAY**

**WITH LOVING MEMORY  
TO ALL THE FALLEN  
AND ALL THE ALLIED HEROES  
WHO REGISTERED**





**17<sup>th</sup> July 1945  
to  
2<sup>nd</sup> August 1945**

**Potsdam Conference**



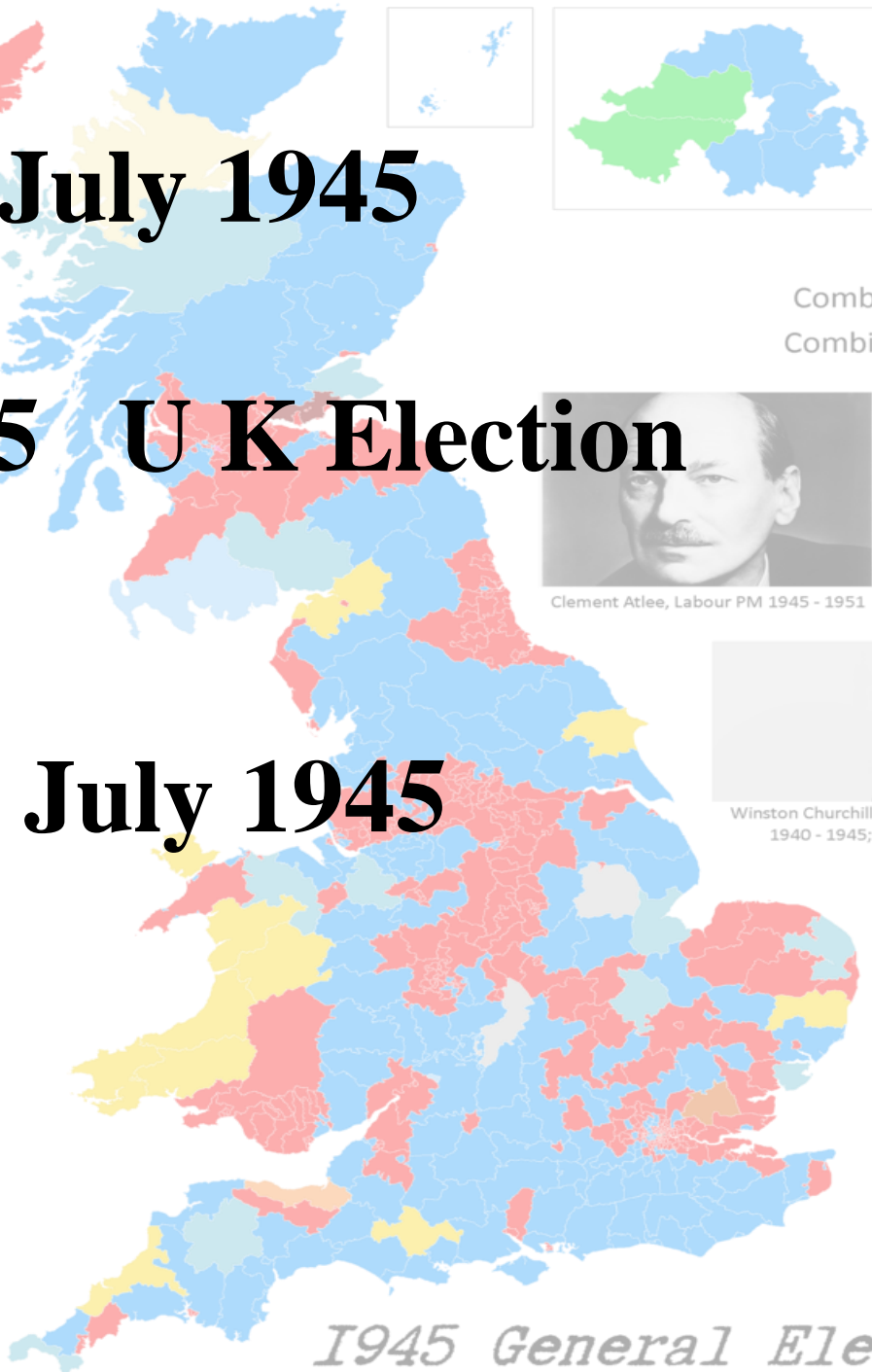
5<sup>th</sup> July 1945

1945 U K Election

To

26<sup>th</sup> July 1945

1945 General Election



Clement Attlee, Labour PM 1945 - 1951



Winston Churchill, Conservative PM 1940 - 1945; 1951 - 1955

- Universities:
- Belfast
  - Cambridge
  - London
  - Oxford
  - Wales
  - Combined English
  - Combined Scottish

- Key:
- Labour
  - Conservative
  - Liberal
  - National Liberal
  - National
  - Common Wealth
  - Communist
  - Nationalist
  - Independent Labour
  - Labour Independent
  - Conservative Independent
  - Progressive Independent
  - Liberal Independent
  - Independent



**6<sup>th</sup> Aug 1945 : Hiroshima**

**9<sup>th</sup> Aug 1945 : Nagasaki**

**15<sup>th</sup> Aug 1945 : World War II ends**





# Clement Atlee - Election promise to grant independence to colonies



**Aug 1945: Lord Wavell, Viceroy of India submits report to British Cabinet**

- ❖ Britain ravaged by War, militarily and economically weak
- ❖ Differences between Muslim League and Congress
- ❖ Difficult to maintain Law and Order



**March 1946**

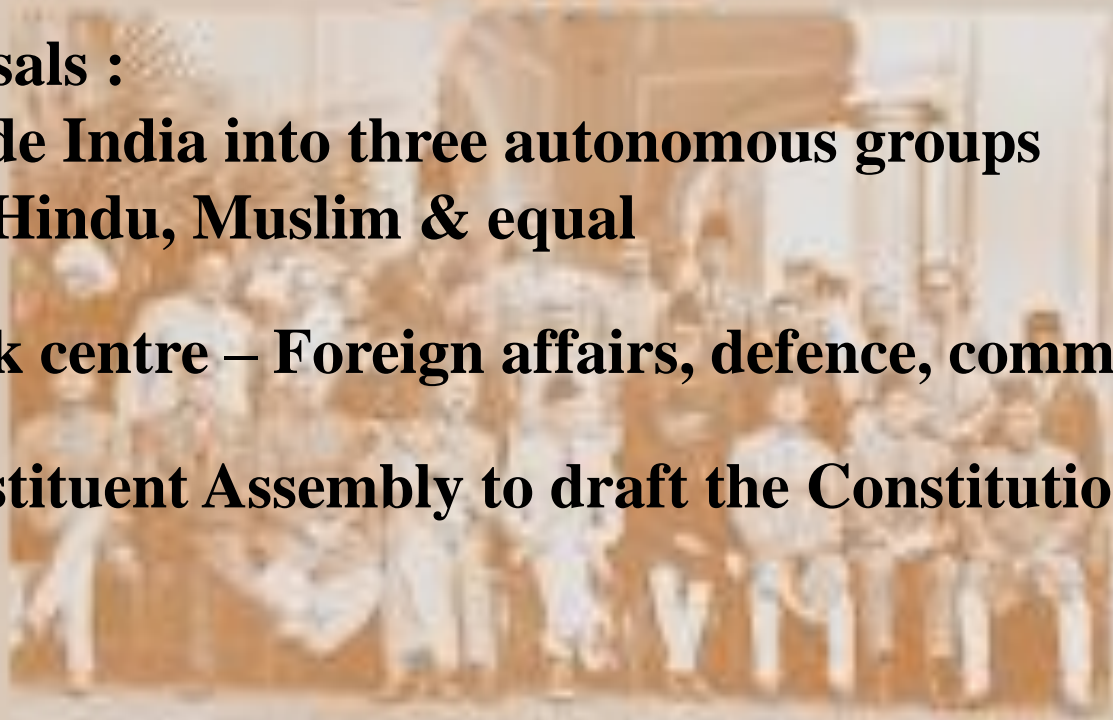
- **Cabinet Mission Plan (CMP)**
- **Cripps, P. Lawrence & Alexander**

## 1946 Cabinet Mission to India

**16<sup>th</sup> May 1946**

**Proposals :**

- **Divide India into three autonomous groups**
  - **Hindu, Muslim & equal**
- **Weak centre – Foreign affairs, defence, communications**
- **Constituent Assembly to draft the Constitution.**



## **29<sup>th</sup> July 1946**

- Constituent Assembly meets for the first time (preliminary)
- Muslim League boycotts
- 217 members elected through the provincial legislatures
- 6<sup>th</sup> Schedule to Government of India Act
- No universal adult franchise
- 28.5% of population eligible to vote
- Matriculates, Taxpayers and landed property owners



- ❖ Differences between Muslim league and Congress over partition
- ❖ Demand for an independent Pakistan
- ❖ 31 Jan 1947 Jinnah issues ultimatum



**20 Feb 1947**

- ❖ Atlee makes statement in house of commons
- ❖ Transfer of power latest by Jan 1948

**22<sup>nd</sup> March 1947**

- **Mountbatten replaces Wavell**

Atlee : Keep India united if you can.

If not, save something from the wreck

In any case, get Britain out



**3<sup>rd</sup> June 1947**

❖ **Mountbatten plan**

- **Partition of India**
- **Independence by 15<sup>th</sup> August 1947.**



# Indian Independence Act

- ❖ Two independent States from 15<sup>th</sup> August 1947
- ❖ Partition of Bengal and Punjab
- ❖ Two separate Constituent Assemblies, which shall become the legislatures of the two independent Nations
- ❖ This marked the end of British Rule on Indian subcontinent and birth of two sovereign Nations – India and Pakistan.

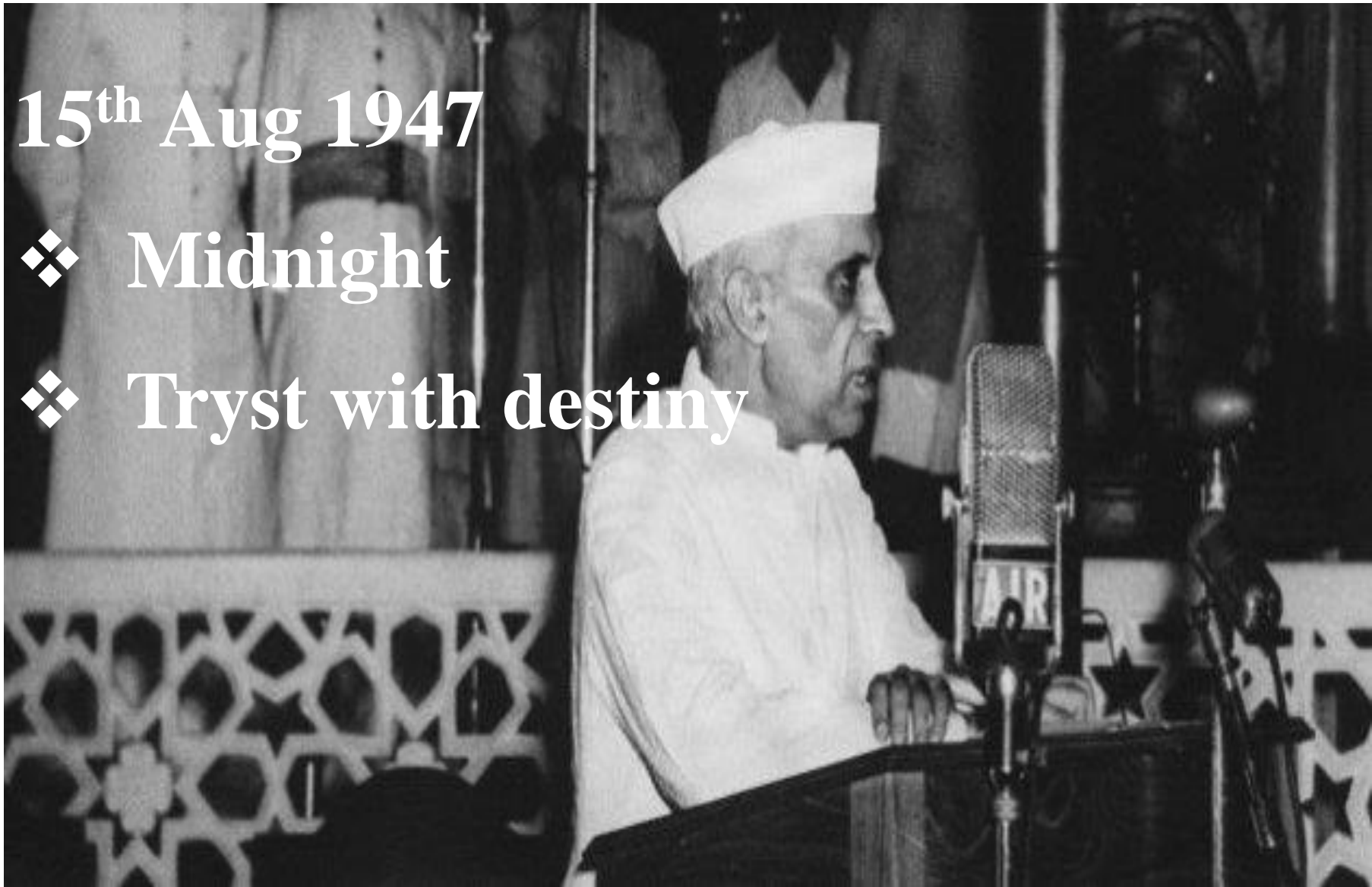




15<sup>th</sup> Aug 1947

❖ Midnight

❖ Tryst with destiny



**October 1947: Draft Constitution prepared by Dr B N Rau Reddy**



**Feb 1948: Draft Constitution approved by Dr B R Ambedkar committee**

**Oct 1948 to Oct 1949: For 11 months CA in session**

**Clause by clause consideration of Draft Constitution**

- **No separate electorate for minorities**
- **Special protection of SC/ST**
- **Distribution of power between Centre and State**
- **Draft revised Constitution – 395 Articles and 8 Schedules**







## Constituent Assembly :

- Statesmen and visionaries
- Conscious that they were representing hardly 28.5% of the population
- Constitution has to reflect best in the **past** traditions of the nation
- Constitution has to provide considered response to the needs of the **present**
- Constitution has to possess enough resilience to cope with demands of the **future**





**No generation can claim monopoly over wisdom or put fetters on future generations.**

**“Each generation must be considered as a distinct nation, with a right of the will of the majority to bind themselves, but none to bind the succeeding generations more than the inhabitants of another country”.**

**-Jefferson**



**A Constitution states, or ought to state, not the rules of passing hour, but the principles for an expanding future.**

**- Chief Justice John Marshall**

**MAGNA  
CARTA**

The Foundation of Freedom  
1215-2015






- Constitution represents the will of the people
- The real sovereign in a democracy is the people
- Democracy is nothing but the government by the consent of the people

Democracy is government of the people, by the people and for the people.

- Abraham Lincoln

THE GETTYSBURG ADDRESS

DELIVERED  
BY  
ABRAHAM  
LINCOLN  
NOV. 19 1863



AT THE  
DEDICATION  
SERVICES  
ON THE  
BATTLE FIELD

**F**ourscore and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal. \* \* \* Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. \* \* \* We are met on a great battle-field of that war. \* \* \* We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. \* \* \* It is altogether fitting and proper that we should do this. \* \* \* But in a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground. \* \* \* The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here. \* \* \* It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; \* \* \* that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom, and that the government of the people, by the people, and for the people, shall not perish from the earth.

- ❖ People have inalienable rights.
- ❖ However, in order that such rights can be effectively enjoyed, there is necessity of some form of government, which not only recognizes such rights, but, if need be, enforces such rights.
- ❖ Order without liberty and liberty without order are mutually destructive - Ted Roosevelt
- ❖ Freedom without boundaries is like river without banks.

# **Impact of**

- **Great traditions of this great nation**
- **National freedom struggle**
- **Social and economic divisions**
- **Magna Carta : 1215**
- **French revolution: 1789 – 1799**
- **U S Constitution : 1787**
- **Bill of rights: 1791**
- **Montesquieu theory of separation of powers :**

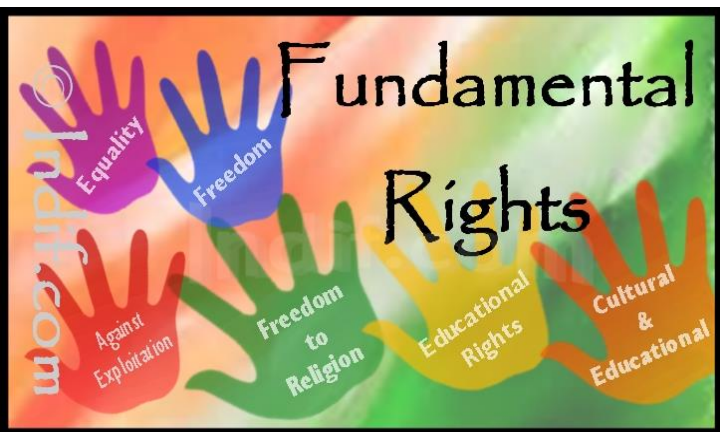


## **Impacts of**

- **British North America Act, 1861 (Canada)**
- **The Commonwealths of Australia Act, 1900**
- **Government of India Act, 1935**
- **Constitution of Free State of Ireland**
- **Constitution of Japan**

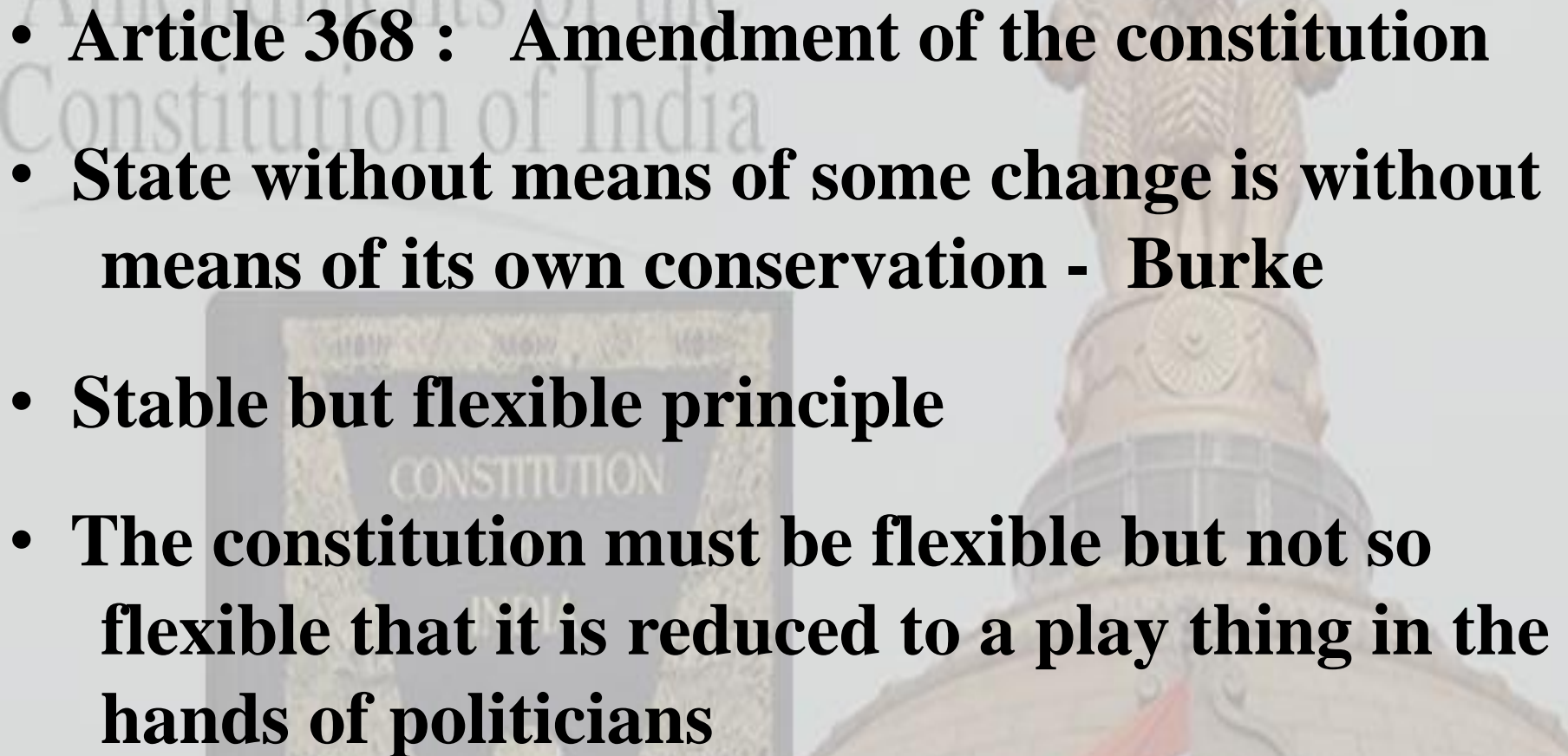
- ❖ **Part III Fundamental rights**
- ❖ **Part IV Directive Principles of State Policy**
- ❖ **Delicate balance between idealism (Part IV) and practicalities (Part III)**

FUNDAMENTAL RIGHTS & DIRECTIVE PRINCIPLES OF STATE POLICY



 Directive principles of state policy in India



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- **Article 368 : Amendment of the constitution**
  - **State without means of some change is without means of its own conservation - Burke**
  - **Stable but flexible principle**
  - **The constitution must be flexible but not so flexible that it is reduced to a play thing in the hands of politicians**

**Liberty means responsibilities.**

**That is why most men dread it.**

**- G B Shaw**

